

Remarks

Claims 1, 7 and 14 were previously amended. Claims 1, 3, 4, 7, 9, 10, 14, 17, and 18 are presently amended. Claims 2, 8, and 15 are cancelled. Claims 1, 3-7, 9-14, and 16-20 are pending in this application. The Examiner has rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0129146 to Aronoff, et al. (hereinafter “Aronoff”) in view of U.S. Patent Publication No. 2003/0237018 to Baba (hereinafter “Baba”) . Applicants respectfully traverse the Examiner’s rejections.

A. Remarks Regarding Rejection of Claims 1-20 Under 35 U.S.C. § 103(a)

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Aronoff in combination with Baba fails to teach each of the limitations of the amended independent claims 1, 7, and 14. In particular, Aronoff in combination with Baba fail to teach “duplexing, at a predetermined time interval, a transaction queue of a first server of the two or more servers to a shared storage device, wherein the shared storage device is communicatively coupled to at least two of the two or more servers” and “detecting a failure of the first server, wherein detecting comprises detecting a failure via the heartbeat mechanism” as required by amended independent claim 1 and similarly for claims 7 and 14.

With respect to “duplexing, at a predetermined time interval, a transaction queue of a first server of the two or more servers to a shared storage device, wherein the shared storage

device is communicatively coupled to at least two of the two or more servers,” the Examiner for the previous limitation cited to the server takeover system and method of Baba. (Office Action, pages 2-3.) In particular, the Examiner stated that Baba discloses transferring transactions by a shared disk at paragraph 53. (Office Action, page 4.) However, this citation is insufficient to disclose the above limitation of duplexing, at a predetermined time interval, a transaction queue. Baba discusses a client-server system in which a stand-by computer *observes* all of the transaction traffic on the network. (Baba, para [0052].) “Using a sniffing procedure as generally described above, the stand-by computer sniffs all of the packets on both the client and AP server layers of the network.” (Baba, para [0052].) This sniffing procedure allows the stand by computer to keep up with the current outstanding requests of the active computer. (Baba, para [0052].) The stand by computer can then takeover for the active computer if the active computer fails. (Baba, para [0052].) This procedure by Baba of detecting network traffic, by sniffing and updating its queue *on its own* is not the same as periodic duplexing of the transaction queue as required by the claims. Paragraph 53 of Baba then discusses data transfer by a shared disk, but this is still under the discussion of sniffing packets to maintain a similar queue to that of the active computer. (Baba, para [0053].) This is not the same as “duplexing, at a predetermined time interval, a transaction queue of a first server of the two or more servers to a shared storage device, wherein the shared storage device is communicatively coupled to at least two of the two or more servers.” There is no discussion of duplexing a queue in Baba and there should not be, as the stand by computer detects each network packet to update its log in Baba. Accordingly, Baba fails to meet this element of claim 1.

Aronoff in combination with Baba also fail to disclose “detecting a failure of the first server, wherein detecting comprises detecting a failure via the heartbeat mechanism.” The

Examiner cites paragraph 34 as meeting this limitation in Aronoff. (Office Action, page 4.) However, paragraph 34 discusses a client server system *that moves client connections* between database hosts, and as such, does not discuss detecting a failure of the servers on the network by a heartbeat mechanism. In Aronoff, once a connection to the database is lost by the client, the system will connect that client to another database as a backup connection is waiting. (Aronoff, para. [0034].) There is no discussion of a central heartbeat mechanism to perform the detection as Aronoff is discussing TCP client connections. Accordingly, Aronoff fails to disclose the element above.

Amended independent claims 7 and 14 contain similar limitations as discussed above with respect to claim 1, and as such, are also allowable over the prior art.

As Aronoff in view of Baba fails to teach or disclose each and every element of independent claims 1, 7, and 14, Aronoff in view of Baba does not render these claims obvious. Applicants respectfully submit that these independent claims are allowable. Additionally, Applicants submit that dependent claims 3-6, 9-13, and 16-20 are allowable, as they depend from otherwise allowable base claims.

B. Remarks Regarding Rejection of Dependent Claims 3-6, 9-13, and 16-20

The rejection of dependent claims 3-6, 9-13, and 16-20 will not be discussed individually herein, as each of these claims depends, either directly or indirectly, from an otherwise allowable base claim.

C. No Waiver

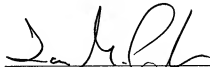
All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these

additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by examiner, Applicants do not acquiesce to examiner's additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art. The example distinctions discussed by Applicants are sufficient to overcome the anticipation rejections. The current amendments to the claims are sufficient to overcome the novelty and obviousness rejections.

Conclusion

Applicants respectfully submit that the pending claims 1-20 of the present invention, as amended, are allowable. Applicants respectfully request that the rejection of the pending claims be withdrawn and that these claims be passed to issuance.

Respectfully submitted,



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Baker Botts Docket Number: 016295.1510

Date: September 25, 2009